

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEMTRON CORPORATION,

Plaintiff,

-vs-

Case No. 1:04-0387
Hon: AVERN COHN

SAINT-GOBAIN CORPORATION,

Defendant.

**ORDER DENYING CROSS MOTIONS
FOR SUMMARY JUDGMENT ON ISSUE OF INFRINGEMENT**

This is a patent case. At issue is the question of infringement by defendant's SG16 shelf of Claim 23 of plaintiff's U.S. Patent No. 6,679,573, Refrigerator Shelf. Previously the Court found defendant's SG1, SG2 and SG3 shelves infringed. Now before the Court are

Saint-Gobain's Motion For Summary Judgment of Non-Infringement

Gemtron's Renewed Motion For Summary Judgment As To Infringement By The SG16 Shelf

On August 16, 2007, the Court entered an Order Denying Plaintiff's Motion For Summary Judgment Of Infringement By The SG16 Shelf, stating "[t]he Court is still satisfied that the case merits proceeding to trial on the issue of whether the SG16 shelf infringes Claim 23 of the '573 Patent."

After careful study of the parties' papers on the pending motions, the Court is satisfied that the infringement issue is best to be decided by a jury.

There is at a minimum a genuine issue of material fact over whether the edge portion of a soft plastic frame which is malleable is sufficiently resilient such that it temporarily deflects and subsequently rebounds to secure a glass pane being inserted into it.

Also, given the fact that as noted above, that the SG1, SG2 and SG3 shelves have been held to infringe, and the record is not clear as to the differences between these shelves and the SG16, a full blown fact determination of the characteristics of the SG16 shelf in relation to what is called for by Claim 23 is in order.

Accordingly, the cross motions for summary judgment are DENIED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: December 6, 2007

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, December 6, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160